

IN RE: PETITION FOR SPECIAL HEARING • BEFORE THE
W.S. Robcastle Rd., 580.08 ft. • ZONING COMMISSIONER
S. of J. Paper Mill Road • OF BALTIMORE COUNTY
14117 Robcastle Road • 19th Election District
19th Election District • 19th Councilmanic District
Ascot Estates, Inc. • CASE # 94-249-SPH
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing for a portion of the residential subdivision known as Ascot Estates, located near Jacksonville in northern Baltimore County. Approval is requested, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) of an amendment of the Final Development Plan for Section Three for Ascot Estates, specifically lots 4, 5, 6, 7, 8, 17 and 19. The nature of the amendment to the site plan affecting these lots pertains to well access panhandle easements, and includes an area in the bed of a public street pursuant to a franchise agreement with the Baltimore County Department of Public Works. The amendment also seeks approval for wells which are located offsite to the property they serve, with the primary lots lying in an R.C.4 zone and the panhandles and well areas located in an R.C.4 zone. Approval is also sought for a refinement of lot 19 to accommodate the well panhandles and well areas. All of the relief requested is as shown on the site plan and accepted as Petitioner's Exhibit No. 1.

Appearing at the requisite public hearing held for this case was Alvin B. Blank, Vice President of Ascot Estates, Inc., the Developer/property owner. Also appearing was David Kelly, from Jones Well Drilling, Inc. and Vincent J. Moskanas the engineer who prepared the site plan. The Petitioner was represented by Newton A. Williams, Esquire. Appearing as interested parties were four residents of Ascot Estates, including Gary C. Baker, Ricci C. DePasquale, John T. Heagy and Glen Kukučka.

Testimony and evidence offered indicated that the subject property is known as Phase Three of the residential subdivision known as Ascot Estates. The Jacksonville area is also known as Four Corners. The subject property has been built on since the late 1970s and has been developed with substantially priced single family houses on large lots. The total area encompassed by Ascot Estates is approximately 56 acres. As shown on the site plan attached to the Petition, the special hearing request relates to Section Three of Ascot Estates which is located on the south side of Paper Mill Road and west side of Jarrettsville Pike.

This area is comprised of 21 single family lots. Of the 21 lots, 13 have been sold and 8 of those have been improved by construction of single family houses and are occupied. The remaining 8 lots are under the ownership of the Petitioner, Ascot Estates, Inc.

As has been well documented, Jacksonville has been beset by contamination of its ground water. Specifically, some years ago, it was discovered that much of the ground water in the subject area was contaminated by three service stations in Jacksonville Village. One of the service stations involved was owned by the Exxon Corporation and is located nearby Section Three of Ascot Estates. Testimony indicated that notwithstanding these problems, wells were constructed on the 8 lots on which single family houses have been built. In fact, the neighbors testified, who are the owners of four of the subject lots, that their wells have been operating and that there has been no problem with either water quantity or water quality.

Nonetheless, apparently Baltimore County's Department of Environmental Protection and Resource Management (DEPRM) is concerned about additional wells on the undeveloped lot. There was extensive testimony by Mr. Kelly regarding the exhaustive efforts which have been undertaken by the Environ-

mental Protection Agency and Baltimore County's Department of Environmental Protection and Resource Management (DEPRM) to clean up the area. Apparently, two methods had been employed to cleanse the contamination. One of the methods involves a pumping and cleaning of the ground water, which is then filtered back into the ground water system. Another method involves the actual cleansing of the soil area immediately adjacent to the underground water table. These processes both require an extensive number of wells, both to monitor and to pump the ground water. Apparently, in an effort to ensure the success of these operations, Baltimore County has determined that the remaining unsold and unbuilt lots in Ascot Estates, Section Three, should not have their own wells. It is felt that these additional residential wells, within such close proximity to the contaminated service station property, may in some way hinder the cleanup operations.

Faced with DEPRM's decision in this regard, the Developer was then forced to pursue alternatives to provide water to the potential purchasers of the remaining single family lots. In fact, testimony was offered that Mr. Blank and his company initially proposed constructing a community well on lot No. 19. It was envisioned that a large well would be drilled on that lot and that water would be pumped therefrom to all of the 21 lots within Section Three. It was envisioned that this community well system would ensure an adequate volume and safe water to all of the residents in this part of the subdivision. After expending a great amount of money, however, in pursuit of this approach, Mr. Blank's efforts to implement a community well system were denied by Baltimore City. Apparently, officials of Baltimore City believed that they did not have the authority to approve such a community well system. Moreover, the City's approval of the proposed system was

needed based upon long standing agreements between Baltimore City and Baltimore County regarding water availability.

Having expended large sums and still frustrated in his efforts to provide water to the unsold lots, Mr. Blank then undertook a different approach. This approach is documented within Petitioner's Exhibit No. 1 and the Petition for Special Hearing which has been presented to me for consideration. That Petition and the site plan shows that in lieu of a single community well on lot No. 19, the Petitioner proposes drilling separate wells for lots 4, 5, 6, 7, 8, 17 and 19 within the confines of lot No. 19. That is, 7 wells will be drilled on lot No. 19. The wells will be fitted with larger pumps, pipes and wires so as to enable each well to serve an adjoining lot. Thus, a somewhat unusual scenario will be developed where a given lot will be served by a well which is located offsite. The wells will be connected to the lots which each well respectively serves by a pipe/easement system, all as more clearly depicted on the site plan.

Mr. Kelly, from Jones Well Drilling, Inc., offered extensive testimony as to the specifics of this system. He offered the results of a variety of tests which were undertaken at the insistence of DEPRM. These tests were undertaken to ensure that the installation of the wells on lot No. 19 would not adversely affect the cleanup on the Exxon property. Moreover, the test data was used to support the conclusion that the proposed wells would not adversely affect any of the existing wells within Ascot Estates, Section Three. This latter conclusion was of particular interest to the neighbors who appeared at the public hearing. The test data produced showed that irrespective of the pumping of large volumes of water from test wells on lot No. 19 over extended period of time, there was no draw down or adverse affect on adjoining wells. This data, although not constituting a guarantee

ORDER RECEIVED FOR FILING
Date: 1/28/94
By: Mr. Blank

ORDER RECEIVED FOR FILING
Date: 1/28/94
By: Mr. Blank

ORDER RECEIVED FOR FILING
Date: 1/28/94
By: Mr. Blank

to the neighbors, clearly indicates that the Petitioner's studies to this point entirely support the conclusion that the proposed well system will not adversely affect existing wells. There appears, based on the evidence presented, that the existing residential wells will not be adversely affected in any manner, either by way of water quantity or water quality.

This innovative approach has won the endorsement of DEPRM. Within their Zoning Plans Advisory Committee comment, DEPRM indicated that their office was "in accord with the specific elements of the Petition and endorses its approval." Moreover, the Office of Planning and Zoning deferred to the DEPRM in their judgment of this issue.

Based upon the testimony and evidence presented, I am persuaded that the Petition for Special Hearing should be approved. Indeed, the Petitioner has developed an innovative approach to solve a most difficult problem. Although the absolute success of this approach cannot be guaranteed, the evidence and testimony presented to me was overwhelming that the Petitioner has met every County, State and Federal standard to this point to ensure the safety of the water in this area and to assure that adjoining wells will not be adversely impacted. Thus, it is clear that the Petitioner's plans should be approved and that the scenario which has been developed will not create any adverse impact upon the surrounding locale. That is, the specific standards enunciated in Section 502.1 of the B.C.Z.R. have been satisfied. There is no evidence that the proposed plan will be detrimental to the health, safety and general welfare of the locale.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 28th day of January, 1994 that, pursuant to the Petition for Special Hearing, approval of an amendment of the Final Development Plan for Section Three for Ascot Estates, specifically lots 4, 5, 6, 7, 8, 17 and 19; and approval for a refinement of lot 19 to accommodate the well panhandles and well areas, under Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), be and is hereby GRANTED subject, however, to the following restriction which is a condition precedent to the relief granted herein:

1. The Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

LES:mmn

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date: 1/28/94
By: Mr. Blank

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

January 28, 1994

Newton Williams, Esquire
Nolan, Williams and Plumhoff
Suite 700, Court Towers
210 W. Pennsylvania
Towson, Maryland 21204

RE: Case No. 94-249-SPH
Petition for Special Hearing
Ascot Estates, Inc., Petitioner

Dear Mr. Williams:

Enclosed please find the decision rendered in the above captioned case. The Petition for Special Hearing has been granted, in accordance with the attached Order.

In the event any party finds the decision rendered unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Appeals Clerk at 887-3391.

Very truly yours,

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmn

encl.
cc: Mr. Alvin Blank, Vice President
Ascot Estates, Inc.
cc: Mr. Gary C. Baker
Mr. Ricci C. DePasquale
Mr. John T. Heagy
Mr. Glen Kukučka

ORDER RECEIVED FOR FILING
Date: 1/28/94
By: Mr. Blank

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at Ascot Estates, Section Three, Robcastle Road
94-249-SPH which is presently zoned R.C.5 and R.C.4



This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

See attached

Property is to be posted and advertised as prescribed by Zoning Regulations 1, or we agree to pay expenses of above Special Hearing advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchase/Lease	Legal Owner(s)
(Type or Print Name)	ASCOT ESTATES, INC.
Signature	<i>Alvin Blank</i> v.1
Address	Signature: ALVIN BLANK, Vice President
City	(Type or Print Name)
State	Hillendale Square
Zip Code	1045 Taylor Avenue, 337-7444
Address	Phone No.
City	Baltimore, Maryland 21286
State	City
Zip Code	Name, Address and phone number of legal owner. Contract purchase or representation to be contacted
Signature	Newton A. Williams, Esquire
Address	700 Court Towers
City	210 W. Pennsylvania Avenue, 823-7800
State	Towson, Maryland 21204
Zip Code	City

ESTIMATED LENGTH OF HEARING: 1/2 DAY
No following date: SEE NOTE
REMOVED BY: CAH DATE: 16 Dec 93



ABOUT THE TIME IN 1975, MR. BLANK REQUESTED HOOKER'S ASSOCIATE, INC. TO LAYOUT A SUBDIVISION FOR A PROPOSED PROPERTY IN JACKSONVILLE THAT WAS LOCATED EAST OF TRAVELERSVILLE ROAD AND LOT 19 ON THE NORTH AND SOUTH SIDES OF PAPER MILL RD. ABOUT 1977, HOOKER'S ASSOCIATE, INC. WAS THE ARCHITECT OF RECORD FOR THIS AREA AND WITHIN THIS AREA WERE SEVERAL LOTS. THIS AREA WAS STARTED UNDER DESIGN AND THIS PROPERTY WAS SUBMITTED TO BALTIMORE COUNTY. A RECORD PLAT WAS RECORDED IN 1978 SHOWING 18 LOTS. IN JUNE, 1980 THE AREA WAS RE-RECORDED AND DIVIDED INTO 20 LOTS. TOTALING 19 LOTS. APRIL, 1981 A RE-RECORDING OF LOT 19 WAS APPROVED MAKING 21 LOTS. THE DENSITY WOULD ALLOW 27 UNITS. AROUND THE TIME OF 1980 TO ABOUT THE YEAR 1991, THERE WAS A PROPOSAL TO DEVELOP A COMMUNITY CENTER FOR THE AREA WHICH WOULD BE INVESTIGATED ON LOT 19 AND A FEASIBILITY STUDY WAS CONDUCTED BY JOHN M. SMITH, INC. WITH REQUESTS TO BALTIMORE COUNTY TO EXTEND THE UTILITIES DISTRICT TO THE AREA. TO DEVELOP ALL 21 LOTS. THIS WAS CONDUCTED ABOUT THE YEAR 1991. AT WHICH TIME THE CITY'S LEGAL DEPARTMENT COULD NOT APPROVE THE REMOTE PROPERTY OF THE METROPOLITAN DISTRICT. TO SUPPLY WATER TO THESE 21 LOTS. DURING APRIL, 1993 MR. BLANK OBTAINED THE RIGHT TO DEVELOP A SITE PLAN FROM THE HEALTH DEPARTMENT AND TO BE DEVELOPED IN THIS LOT. ON THE SOUTH SIDE LOT 19 WAS APPROVED FOR A BUILDING SITE AND SUBSEQUENTLY SOLD. WITH THIS SALE MR. BLANK REQUESTED IN NOV., 1993 MEETINGS WITH THE COUNTY TO RESOLVE THE CONTINUING QUESTION OF NOT BEING ABLE TO SELL THE REMAINING LOTS. MR. BLANK ATTEMPTED TO SELL THE REMAINING LOTS TO THE HEALTH DEPARTMENT AND BALTIMORE COUNTY. THE HEALTH DEPARTMENT AND BALTIMORE COUNTY HAVE BEEN ADVISED THAT COMMUNITY WELL WITH MR. THOMAS OF BALTIMORE COUNTY, MR. MILTON OF EADM AND HIS FARMINGTON HEALTH DEPARTMENT. AND MR. BLANK THIS CONCEPT WAS DEVELOPED THAT HAVE BEFORE TODAY.

MARY KILLINS.
578-1736
887-4804

Baltimore County Government
Office of Law

400 Washington Avenue
Towson, MD 21204

(410) 887-4420
Fax (410) 296-0931

March 8, 1993

SAMPLE.

Re: Request for Franchise

Dear Mr. Smith:

Enclosed please find Article III, Franchises, Sections 31-36 through 31-39 of the Baltimore County Code relating to the application for franchises.

In addition, I am enclosing sample copies of the following:

1. Letter of Request;
2. Engineer description;
3. Plat; and
4. Notice.

There will also be a fee for review and processing franchise applications of \$150.00 payable to Baltimore County, Maryland in accordance with Resolution 2-92 passed by the County Council in 1992.

If you have any questions, please feel free to contact me.

Very truly yours,
Stanley J. Schapiro
Deputy County Attorney

SJS/bj
Encl.

EXHIBIT #4

Jan. 19 '94 15:25 0000 TOWSON, INC. TEL 410-321-7007 P. 2

Pat #6

AGREEMENT

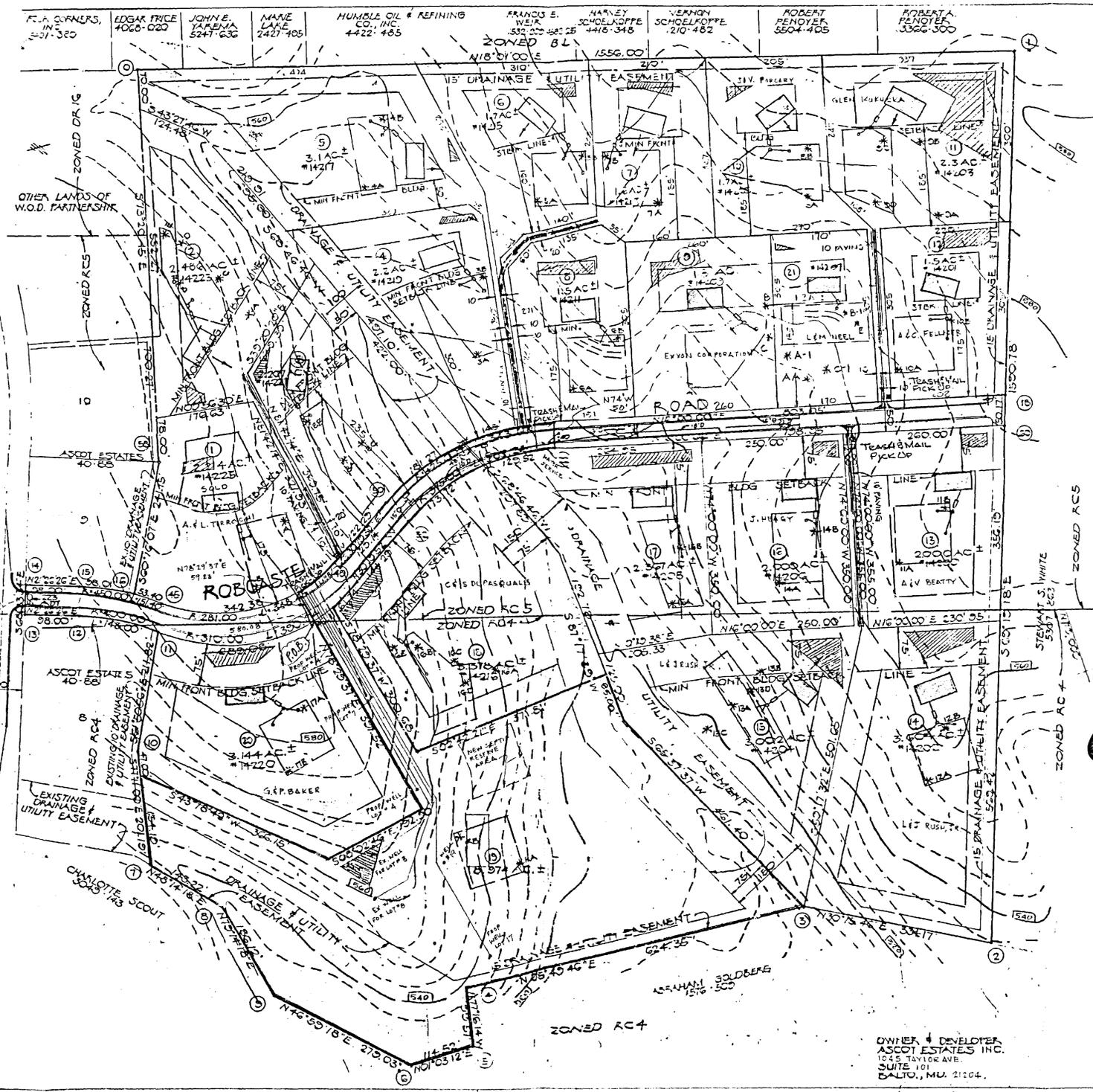
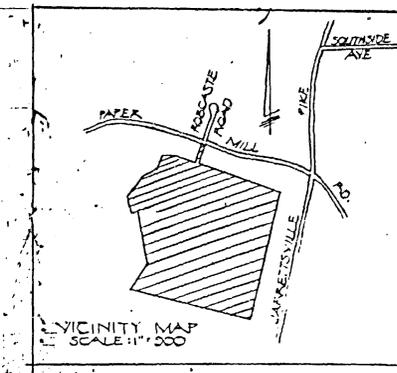
In consideration of certain adjoining lot owners indicating their support of Ascot Estates's pending application before the Baltimore County Office of Zoning and Management, Ascot Estates hereby is willing to do the following items in its Section Three Development, contingent upon the Baltimore County's approval of the application:

1. To erect entrance walls at the South Entranceway of Reboaste Road and Paper Mill Road similar to those entrance walls on the North Side of that intersection.
2. To install two additional street lights on Reboaste Road.
3. To not authorize the construction of dwellings that would be less than 2,840 S.F. on lots 2,3,4,5,6,7,8,17 and 19.
4. To begin the construction of items 1 and 2 above within three months of the final approval by Baltimore County for Ascot Estates to be able to sell the above mentioned lots.

It is further understood that if Ascot Estates is unsuccessful in achieving permission to sell the above lots, all of the above obligations by Ascot Estates shall be null and void.

Ascot Estates, Inc.
Alvin L. Blank
Alvin L. Blank

1.18.94
Date



94249-SPH

PROPERTY ADDRESS: 11412 ROBCASTE ROAD
 SUBDIVISION NAME: "ASCOT ESTATES" P.A. # 4640.047
 LOT 19, SECT. III

NO PRIOR ZONING HEARINGS.
 NOT IN CHESAPEAKE BAY CRITICAL AREA.
 1" = 200' SCALE MAP # 11E, 20121 C
 LOT SIZE: 0.73 AC ±, 319,177.4 SQ. FT.
 ROAD AREA: 0.73 AC ±, 319,177.4 SQ. FT.
 TOTAL: 1.46 AC ±, 638,354.8 SQ. FT.

PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING
 SECTION THREE
 "MILL RUN ESTATES"
 10TH ELECTION DISTRICT COUNCIL MANDATE DISTRICT 13
 BALTIMORE COUNTY, MARYLAND
 DEC. 3, 1973
 SCALE: 1" = 100'

OWNER & DEVELOPER
 ASCOT ESTATES, INC.
 1045 TAYLOR AVE.
 SUITE 101
 BALTO., MD. 21204.

J. Silberman-Dunn

DMTA DEVELOPMENT
 ENGINEERS, INC.

200 East Joppa Road
 Room 101, Shell Building
 Towson, Maryland
 (301) 828-9900

GROUP	SOIL TYPE	MAP SYMBOL	HOMESITES W/ EASEMENTS	STREETS
B	ELOAK	EhB2	SLIGHT	MODERATE; SLOPE
B	GENELEE	GcC3	MODERATE; SLOPE	SEVERE; SLOPE
B	GENELEE	GcB2	SLIGHT	MODERATE; SLOPE

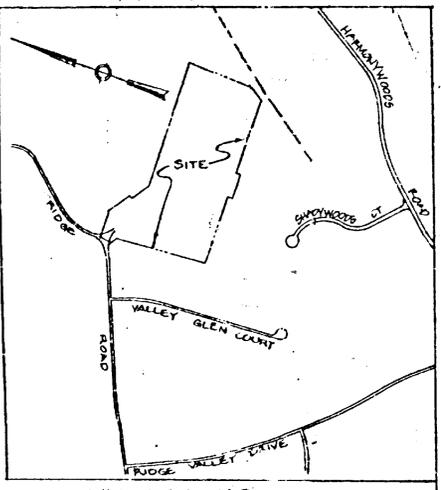
SCALE: HORIZ. 1" = 50'
VERT. 1" = 6'

LEGEND

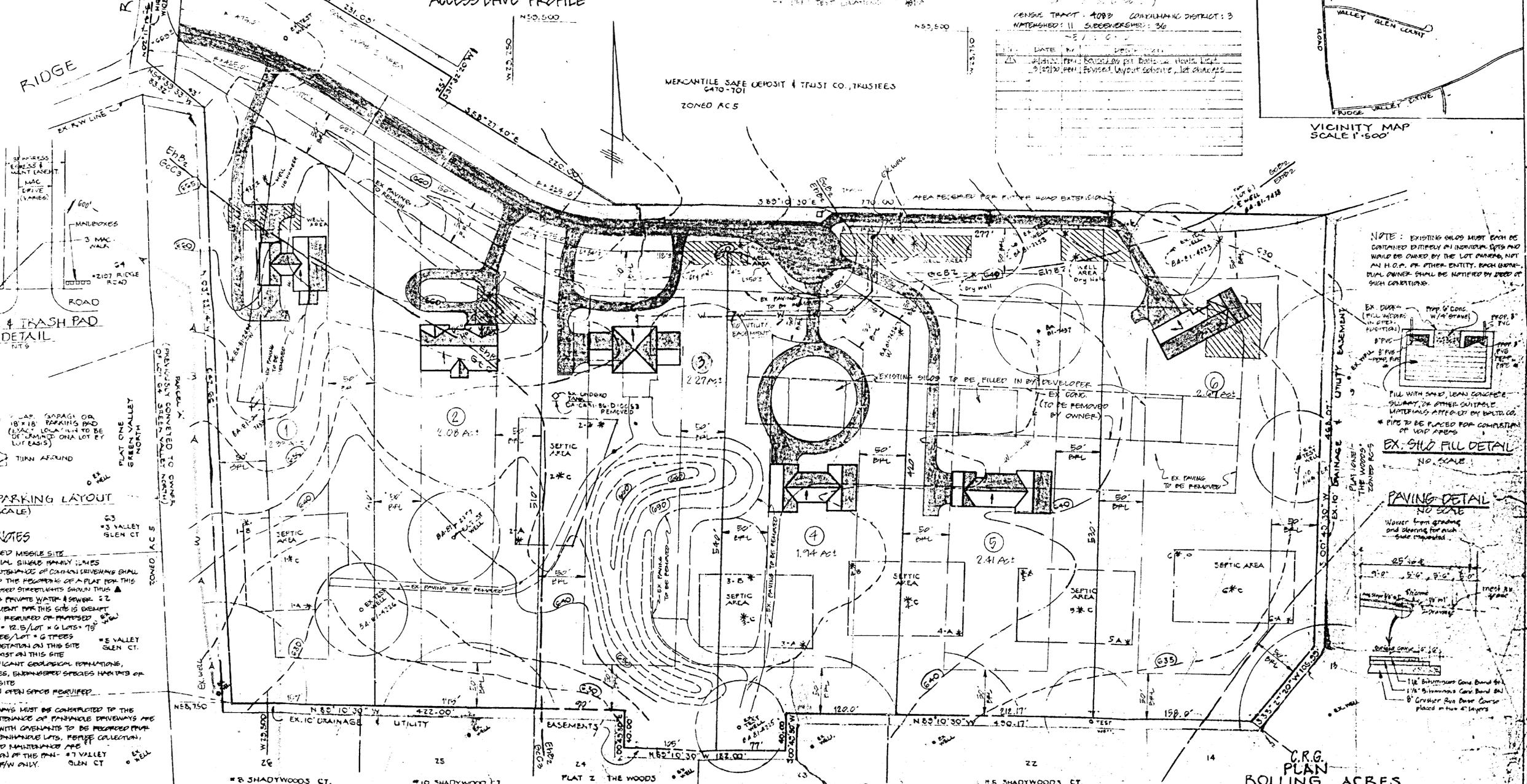
- SEWER SERVICE CONNECTION
- SEWER RESERVE AREA
- DRY WELL
- EXISTING WELL 6" DIA. 74" PROFD. WELL 6"
- TEST WELL P.A. 51-2257
- PROPOSED HOUSE
- EXISTING CENTAURS
- PROPOSED WATER SERVICE
- PROPOSED MACADAM DRIVEWAY
- EXISTING MACADAM DRIVEWAY TO REMAIN
- REVISED LOT NUMBERS
- OLD LOT NUMBERS
- NEW PERC TEST LOCATIONS

DENSITY CALCULATIONS

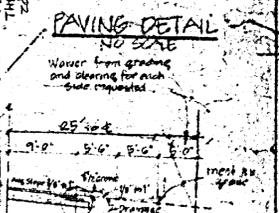
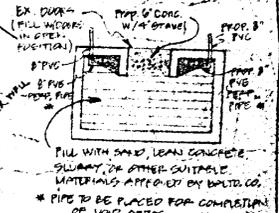
- 1. EX. ZONING = RC-5
- 2. GROSS AREA = 16.67 AC. ±
- 3. HIGHWAY WIDENING = 0.08 AC. ±
- 4. NET AREA = 16.59 AC. ±
- 5. NUMBER LOTS ALLOWED = 16.67 AC. / 1.11 = 15.02
- 6. NUMBER LOTS PROPOSED = 6 LOTS FOR SALE



ARILLA Q SMITH
1709 544
OWNER #0-9



NOTE: EXISTING SHEDS MUST EACH BE CONTAINED ENTIRELY ON INDIVIDUAL LOTS AND WOULD BE OWNED BY THE LOT OWNERS, NOT AN H.O.A. OR OTHER ENTITY. EACH INDIVIDUAL OWNER SHALL BE NOTIFIED BY DEED OF SUCH CONDITIONS.



- GENERAL NOTES**
- EX. USE: ABANDONED MOBILE SITE
 - PROVIDE RESIDENTIAL SINGLE FAMILY HOMES
 - AGREEMENTS FOR MAINTENANCE OF COMMON DRIVEWAYS SHALL BE RECORDED PRIOR TO THE RECORDING OF A PLAT FOR THIS PROJECT. SA. PROPOSED DRIVEWAYS SHOWN THIS
 - EACH LOT SHALL HAVE PRIVATE WATER & SEWER
 - STORMWATER MANAGEMENT FOR THIS SITE IS DEEMED
 - NO OTHER DRAINAGE IS REQUIRED OR PROPOSED
 - AVERAGE ONLY THIS = 12.5' LOT X 6' LOTS = 75'
 - LANDSCAPING: 1 TREE/LOT + 6 TREES
 - THERE IS SOME VEGETATION ON THIS SITE
 - NO HIPPING BLOSS. GROW ON THIS SITE
 - THERE ARE NO SIGNIFICANT GEOLOGICAL FORMATIONS, ARCHAEOLOGICAL SITES, ENVIRONMENTAL SITES HAVING OR OTHER AREAS ON SITE
 - THERE IS NO COMMON OPEN SPACE REQUIRED OR PROPOSED
 - ALL DRIVEWAYS MUST BE CONSTRUCTED TO THE PEAK LOT LINE. MAINTENANCE OF DRIVEWAYS ARE TO BE IN COMPLIANCE WITH AGREEMENTS TO BE RECORDED PRIOR TO SALE OF LOTS FOR PAVEMENT LOTS. FOR PER COLLECTION, SHOW FOR MAINT. & ROAD MAINTENANCE ARE SHOWN TO THE JUNCTION OF THE ROAD - 47 VALLEY GLEN CT STREET P/W ONLY.
 - THE DRIVEWAY SHALL BE BUILT IN AC. PRESENCE WITH STANDARDS ESTABLISHED BY THE DIRECTOR OF PUBLIC WORKS. THE DRIVEWAY SHALL BE PAVED WITHIN ONE YEAR OF THE ISSUANCE OF THE OCCUPANCY PERMIT (FIRST) AND PRIOR TO THE ISSUANCE OF THE OCCUPANCY PERMIT OF THE LAST LOT TO BE SERVED, WHICHEVER COMES FIRST.



M & H DEVELOPMENT ENGINEERS, INC.
200 EAST JOPPA ROAD
ROOM 101, SHELL BUILDING
TOWSON, MARYLAND 21284
826-9060

OWNER & DEVELOPER:
MEWS, INC.
615 PICCADILLY ROAD
TOWSON, MD. 21284
EST. 1980
DEED REF. 7123-807
PROP. NO. 0871045075

C.R.G. ROLLING PLAN ACRES
ELECTION DISTRICT 8TH
BALTIMORE COUNTY, MD
SCALE: 1" = 50'
MAY 18, 1989
REVISED 9-21-89
8-27-89

EXHIBIT #5

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

SCALE
1" = 200'

DATE OF PHOTOGRAPHY
JANUARY 1986

LOCATION
JACKSONVILLE

SHEET
N.E.
21-C

PREPARED BY AIR PHOTOGRAPHICS, INC.
WATFORD, W.V. 26151



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

SCALE
1" = 200'

DATE OF PHOTOGRAPHY
JANUARY 1986

LOCATION
SOUTH OF JACKSONVILLE

SHEET
N.E.
20-C

PREPARED BY AIR PHOTOGRAPHICS, INC.
WATFORD, W.V. 26151